



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

A. G. Kawamura, Secretary

May 22, 2006

Docket Clerk,
Fruit and Vegetable Programs,
AMS, USDA
1400 Independence Avenue, SW
Stop 0243
Washington, DC 20250-0243

To Whom It May Concern:

The California Department of Food and Agriculture (CDFA) is writing in response to the proposed regulations on the Specialty Crop Competitiveness Act of 2004. In the following paragraphs, we have summarized our recommendations for your consideration. We have also attached specific recommended language for the applicable regulation sections.

1. It is possible that some states may not apply for Specialty Crop Block Grant (SCBG) funding. Funds that are not distributed to State Departments of Agriculture should be rolled-over and made available the following fiscal year to that respective state. Funds should not revert back to the AMS or made available to other states.
2. A one-time combined electronic transfer poses a concern for California. Instead we recommend that the advance payment method be used. Under this method, the State Departments of Agriculture will request electronic payments directly made to a third party, which provides expeditious payment to recipients and will allocate grant funds for purposes in which they were originally intended.
3. We recommend that AMS allow the State Departments of Agriculture to utilize a reasonable percentage as supported by a cost allocation plan and indirect cost proposal for administrative purposes. Currently, our Department has a Grant Management Program (GMP) that monitors and provides fiscal oversight over the Specialty Block grant projects. The GMP ensures that all sub grantees are adhering to all applicable State and Federal guidelines and provides fiscal oversight over Specialty Crop Block grant projects.
4. There is a concern for California that the proposed regulations would significantly restrict project costs related to advertising, public relations, selling and marketing. We recommend that program regulations have the same flexibility as the 2001 SCBG Program, which do not prohibit State Departments of Agriculture from making advertising and public relations expenditures that specifically promote specialty crop products.



5. The term “fresh” should be eliminated from the proposed regulations, as incorporating this language does not fully support the definition of the public law, or the intent of the grant program, which is to increase the competitiveness of all specialty crop producers.
6. State Departments of Agriculture should be allowed to use a two-step application process when applying for SCBG funding. Step One of the process would provide a road map of general project areas (e.g., food safety, nutrition, agricultural education, market development, research, trade policy, etc.). After AMS’ approval of Step One, the State Departments would solicit grant proposals through the Notice of Funds Available (NOFA) process. Approved applicants would be incorporated into Step Two of the State Plan, which would follow the current proposed regulations.
7. State Departments of Agriculture, acting as pass-through entities, should conduct audits to monitor its subrecipient’s activities to ensure that Federal awards are in compliance with federal and state laws, regulations, and the provisions of contracts and/or grant agreements. Costs associated with these audits should be an allowable charge to the SCBG funds.

On behalf of California agriculture and specialty crop growers, we thank you for the opportunity to provide recommendations to these regulations that will become the foundation for a program that provides tremendous benefits to specialty crop producers throughout the nation.

Sincerely,

A.G. Kawamura, Secretary
California Department of Food and Agriculture

Attachment

CDFA Comments on AMS' proposed Regulations for Specialty Crops Competitiveness Act of 2004

1. Background - Allocation of Funds to be Awarded

It is proposed that each state applying will receive a base amount of \$100,000. In addition, each State will receive an amount that represents the proportion of the value of specialty crops production in the state in relation to the national value of the specialty crop production using the latest available complete specialty crop production data.

*We recommend the language read as follows, "...In addition, each state will receive an amount that represents that proportion of the value of specialty crops production ... in all states whose applications are accepted. All 50 States, the District of Columbia, and the Commonwealth of Puerto Rico are eligible to participate. **Funds that are not distributed to any State Department of Agriculture should be rolled-over to be funded in the next fiscal year for that State Department of Agriculture that chose not to submit an application for federal assistance, for the duration of the Specialty Crops Competitiveness Act of 2004. The excess should not revert back to the AMS or made available to other states.**"*

2. Background – One-Time Combined Electronic Transfer

The AMS proposes to provide entire funding to approved applicants by a one-time combined electronic transfer.

We recommend the advance payment method be used. The language should be revised as follows, "AMS will provide grant funds to recipients or third-party payees (i.e. Sub-grantees) under the advance payment method. Under the advance payment method, grant funds are requested by the State Department of Agriculture by submitting Form SF-270 and applicable financial forms to AMS. In turn, AMS will make electronic payments directly to the recipient or third-party payee. Under this payment process, the State Department of Agriculture will continue to be responsible for reviewing and submitting the payment and financial forms and for providing administrative oversight of the project. Advances are limited to the minimum amount needed to meet the current disbursement needs and should be scheduled so the funds are advanced to the grant recipient as closely as possible to the actual disbursement. This method provides expeditious payment to recipients or third-party payees and allocates the SCBG funds for purposes in which they were originally intended."

3. Background - Estimated One Time Cost

AMS estimates a one-time cost of \$9,980 for all State Department's of Agriculture to complete a State Plan (499 total hours X \$20.00 hourly rate). This amount would be compensated to State Department's of Agriculture.

We recommend that AMS allow the State Departments of Agriculture to utilize a reasonable percentage as supported by a cost allocation plan and indirect cost proposal

for administrative purposes. Currently, our Department has a Grant Management Program (GMP) that monitors and provides fiscal oversight over the Specialty Block grant projects. The GMP ensures that all sub grantees are adhering to all applicable State and Federal guidelines and provides fiscal oversight over Specialty Crop Block grant projects.

4. Section 1290.1, Purpose

The AMS proposed to award grants in accordance with the applicable federal statutes and regulations including, but not limited to the Code of Federal Regulations, 7 CFR Part 3016. This part of the Code indicates that the State must use the applicable cost principles outlined in the Office of Management and Budget (OMB) Circular A-87.

The OMB Circular A-87 cost principles significantly restrict allowable project costs related to advertising, public relations, selling and marketing. Under the 2001 Specialty Crop Block Grant Program (SCBGP), the CDFA was provided ample flexibility for grant projects whose primary efforts are to advertise and conduct public relations, including selling and marketing activity. The California Grown Campaign and California International Market Promotion for Agriculture (CIMPA) grants are primary examples of these activities.

*We recommend the program regulations have the same flexibility authorized by the USDA under the current specialty crop block grant funds. Therefore, we recommend the language read as follows, “AMS will make grants to states ... in accordance with the terms and conditions set forth herein and other applicable federal statutes ... including but not limited to 7 CFR part 3016. **These regulations should not be construed to prohibit State Department’s of Agriculture from making advertising and public relations expenditures that specifically promote specialty crop products, including but not limited to, selling and marketing activity, product or market labeling and signage, and trade show exhibits.**” The revised language will allow CDFA and other State Department’s of Agriculture to be reimbursed for such project activity and will help improve and expand the reach of specialty crop producers and their products.*

5. Section 1290.4, Eligible grant project

To be eligible for a grant, the proposed regulations provide that projects submitted to AMS must enhance the competitiveness of specialty crops. Priority will be given to fresh specialty crop projects. Grant projects must be completed 3 calendar years after the grant agreement is signed.

*We recommend the term “fresh” be eliminated from the proposed regulations, as incorporating this language does not fully support the definition of the public law, or the intent of the grant program, which is to increase the competitiveness of **all** specialty crop producers.*

6. Section 1290.6, Completed application

The State Plan is the substantive portion of the proposed regulations that require the completed application be submitted on a federal application template form. The State

Plan requires specific planning detail for each proposed project. This includes a Cover Page not to exceed 200 words; Project Purpose which states the specific issue or need to be addressed; Potential Impact which are the project beneficiaries or potential economic impact; Financial Feasibility which is the project budget including what percent of the budget covers administrative costs; Expected Measurable Outcomes which describes 2 or 3 quantifiable measurable outcomes; Project Goals; Work Plan which explains how each goal and measurable outcome will be accomplished, time line and who will do the work; Project Oversight which describes how or whom will oversee grant project activities; Project Commitment which describes the role for all grant partners commitment to achieve the goals and outcome measures; and, Multi-State Projects which are for states that will work jointly on a specific project.

This level of project detail will require a tremendous amount of up-front planning and time. Should CDFA wish to seek public comment for proposed projects, this application process will eliminate or significantly reduce public response time. We recommend the 2004 SCCA regulations provide for the following two-step application approval process.

Step One of the State Plan will provide a road map whereby the State Department of Agriculture identifies general project areas (e.g., food safety, nutrition, agricultural education, market development, research, trade policy, etc.) that will provide long-term benefits to enhance the competitiveness of specialty crops producers. AMS approval of Step One would be followed by the State Department's of Agriculture soliciting grant proposals through the Notice of Funds Availability (NOFA) process. Step Two of the State Plan would require the State Departments of Agriculture to submit the selected grant project details to AMS as required by Section 1290.6, Completed Application in the current regulations.

7. Section 1290.10, Audit requirements

The proposed regulations require the State Departments of Agriculture to conduct an annual audit of the expenditures of SCBGP funds each year that a State receives a grant under the SCBGP.

We concur with this audit requirement and the State Departments of Agriculture should follow the guidelines established in Office of Management and Budget (OMB) Circular A-133. Pursuant to Subpart B, Section 200, of OMB Circular A-133, Non-Federal entities such as States, Local Governments and Non-Profit Organizations that expend \$500 thousand or more in a year in Federal awards are required to have a single or program-specific audit conducted for that year.

We also believe that the State Departments of Agriculture, acting as pass-through entities, should conduct audits to monitor its subrecipient's activities to ensure that Federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are achieved. These audits should be conducted regardless of the amount of Federal award expended for the year.

Under the OMB Circular A-133, costs associated with these audits are allowable charges to Federal awards. These charges may be considered a direct cost or an allocated

*indirect cost, as determined in accordance with the provisions of applicable OMB cost principles circulars. Therefore, we recommend the regulation read as follows “...Each year that a State receives a grant under the SCBGP, a State is required to conduct an audit ... **State Departments of Agriculture who conduct audits in accordance with these standards shall be allowed reimbursement for expenses relating or pertaining to the audit(s) performed.** The audit shall be conducted not later than 60 days after the expiration date of the grant period ...”*